



THE CITY OF NEW YORK
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January 7, 2013

BY ECF

Honorable Lois Bloom
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Marcos Castro v. City of New York, et al.
10 CV 2322 (JG) (LB)

Your Honor:

I am the Assistant Corporation Counsel assigned to represent defendants City of New York, Claudia Bartolomei, Michael Dunleavy, Ismit Hoxha, Michael Keenan, Jeffrey Lee, John Malgaldi, John Oliva, Gerard Abbene, James Shields, Scott Sweeney and Eric Theiss ("defendants"). For the reasons set forth herein, the parties write jointly to request: (1) leave pursuant to Rule 30(a) of the Federal Rules of Civil Procedure for the purpose of taking plaintiff's deposition on January 15, 2013; and (2) a 60-day extension of time to complete discovery, from January 15, 2013 until March 15, 2013.

Since the plaintiff is currently incarcerated, leave of the Court is required. Accordingly, the parties have attached a proposed Order for the Court's endorsement so that plaintiff's deposition can go forward.

Additionally, the parties request an extension of time to complete the remaining depositions. As the Court is aware, there is a total of 11 individual defendants in this action. In light of plaintiff's guilty plea to the underlying offenses, plaintiff is considering withdrawing all claims against some of the defendants. However, before making a determination as to which defendants should be withdrawn, plaintiff is requesting audio recordings of interviews with the officers from the CCRB investigation. In early November, the CCRB offices in lower Manhattan suffered extensive water damage. In fact, their online servers were only restored on or about December 27, 2012. As such, there remains a backlog in processing archive document requests. Although there is no definite timeline for production of the audio files, the parties are hopeful

that they will be available in the near future. Once the audio files are received, plaintiff will be in better position to determine which defendants should be deposed, and which claims will proceed.

Thus, for the reasons set forth above, the parties respectfully request: (1) leave pursuant to Rule 30(a) of the Federal Rules of Civil Procedure for the purpose of taking plaintiff's deposition on January 15, 2013; and (2) a 60-day extension of time to complete discovery, from January 15, 2013 until March 15, 2013.

The parties thank the Court for its consideration of this request.

Respectfully submitted,

/S

Brian J. Farrar

Assistant Corporation Counsel

cc: Darius Wadia, Esq. (by ECF)
Attorney for plaintiff
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
Marcos Castro,

Plaintiff,

-against-

The City of New York, Gerard Abbene, in his individual capacity, Claudia Bartolomei, in her individual capacity, Michael Dunleavy, in his individual capacity, Ismit Hoxha, in his individual capacity, Michael Keenan, in his individual capacity, Detective Lee, in his individual capacity, John Malgaldi, in his individual capacity, John Oliva, in his individual capacity, James Shields, in his individual capacity, Scott Sweeney, in his individual capacity, Eric Theiss, in his individual capacity,

Defendants.
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ORDER

CV 10 2322 (JG) (LB)

**JURY TRIAL
DEMANDED**

Upon the application for leave to take the deposition of plaintiff, Marcos Castro, an inmate, and the Court having granted leave for the taking of plaintiff's deposition pursuant to Rule 30(a) of the Federal Rules of Civil Procedure,

IT IS HEREBY ORDERED that the Superintendent or other official in charge of Clinton Correctional Facility transport and produce inmate Marcos Castro, DIN: 12-A-0431, from Clinton Correctional Facility to the Sing Sing Correctional Facility, located in Ossining, New York for the taking of his deposition on January 15, 2013 at 10:00 A.M., and for so long thereafter, from day to day, as the deposition continues; and (2) that inmate Marcos Castro appear in such place as designated by the Superintendent or other official in charge of Sing Sing Correctional Facility so his deposition may be taken.

Dated: Brooklyn, New York

LOIS BLOOM, U.S.M.J.